

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD  
HELD ON THURSDAY, SEPTEMBER 16, 2010 AT 7:00 P.M. IN THE COMMISSIONERS ROOM,  
SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Jim Bosse, Richard Engst, Chris McFarland, Mark Breker, and Roger White.  
Absent: none. Also present: Sean Fredricks, Attorney

Approve August 19, 2010 minutes as corrected and August financial statement. (Engst/McFarland,  
unanimous)

Motion to approve the renewal of CD 14614 for an additional twelve months. ((Engst/White,  
unanimous)

Approve payment of the following bills: (Engst/White, unanimous)

63030 Gerald Bosse	Refund for tile drain deposit	253.12
63031 Jim Bosse	Travel	37.50
63032 Mark Breker	Travel	118.00
63033 Richard Engst	Travel	125.00
63034 Gwinner City	1/3 culvert cost share	829.56
63035 David Hoffer	Beaver removal Dr # 7	100.00
63036 Johnston Fargo Culverts	Dr # 12-FEMA culvert	2250.40
63037 Chris McFarland	Travel	11.00
63038 Milton McLaen	Refund for tile drain deposit	57.50
63039 Moore Engineering, Inc. Lidar map of Cogswell City	4 Tile permit applications-\$810 and \$720-Drain No. 11	1530.00
63040 Ohnstad Twichell applications	Dr # 9-\$36; Dr # 11-\$27, General and Drain Tile	3185.26
63041 Seyer Farms Inc.	Refund for tile drain deposit	157.84
63042 Julie Vculek	Refund of tile drain deposit	63.55
63043 Roger White	Travel	109.00
4884 Mark Breker	2 PD less 18.36 taxes	221.64
4885 Sherry Hosford	Sec. salary less 24.22 taxes	292.45
4886 Richard Engst	6 PD less 55.08 taxes	664.92
4887 Roger White	2 PD less 18.36 taxes	221.64
4888 Jim Bosse	3 PD less 27.54 taxes	332.46
4889 Chris McFarland	1 PD less 9.18 taxes	110.82
DD Sargent County Bank	Payroll taxes	306.43

Scott Mund and Russell Martinsen, Hall Township Board of Supervisors met with the Board to discuss culverts located between Section 18 of Hall Township and Section 13 of Milnor Township; a culvert between 19 and 20; 20 and 21; 21 and 28 and 27 and 28 all in Hall Township. At a meeting with the county commissioners in April, 2010 there was concern expressed about sizes of the culverts. The county engineer, Damon DeVillers, Interstate Engineering, measured these culverts. Richard Engst has measured these culverts and does not agree with the engineers measurements. The township roadway has washed out several times and they would like a fix to these culverts. The Board stated that these culverts in question are not the responsibility of the Water Board but the county commission should be contacted to verify the culvert sizes. Also discussed including this area in an assessment district. Mr. Mund and Mr. Martinsen will meet with the county commission to discuss the culverts.

Most projects under unfinished business are on hold due to the excessive rainfall received in the past week. Board members will ask Chad Engels, Engineer, Moore Engineering, Inc. to meet with them along with the ND State Water Commission in December to discuss the Silver Lake Dam study. Mark Breker received the easement for the NW1/4-22-129-55 for cleaning out the natural waterway in said quarter. He will share this information with the contractor. The 2010 helicopter spraying along certain drains has been completed by Midwest Helicopters according to Richard Engst.

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**Application to Drain No. 3646 for Duane Bjerke**

The Board reviewed the information from the State Engineer's office regarding Application to Drain No. 3646, and the Board also reviewed an aerial map provided by Mr. Chad Engels, the Board's engineer. The Application is for construction of a surface drain that would include ditching in the Southeast Quarter of Section 35 of Forman Township (T130, R56) and installation of a culvert through a relocated township road. The objective of the project is to relieve flooding on the township road. The Forman Township Board of Township Supervisors recently relocated this road to go around a pond that previously flooded the road on the section line. The applicant seeks to construct a ditch

through a ridge and to install a 40-foot culvert through the road. The project will discharge into a series of ponds and sloughs located in Sections 26, 35, and 36 of Forman Township. According to the Board's engineer, the volume of water draining to the pond will be increased somewhat, and so Mr. Engels is suggesting flowage easements.

The Board's engineer initially suggested flowage easements from the downstream properties in the South Half of Section 26, the West Half of Section 36, and the North Half of Section 35. However, after reviewing the aerial map provided by Mr. Engels, it was clear to the Board the water applicant seeks to drain is connected with the downstream ponds and sloughs anyway, and this water would eventually flow downstream anyway. With that in mind, the Board concluded the adverse impacts in Section 26 would be negligible.

The Board reviewed the proposed responses to the eight-point questionnaire prepared by Chad Engels. The Board will require the applicant to obtain written permission from the Forman Township Board of Township Supervisors to install a culvert through its road. Because the drain will add additional water to the pond and slough system immediately downstream, the project will likely result in some adverse impacts to immediate downstream landowners. The Board adopted Chad Engels' proposed responses to the eight-point questionnaire and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will already require flowage easements from downstream landowners.

Manager McFarland, seconded by Manager Breker, moved to approve Application to Drain No. 3646 for Mr. Duane Bjerke, subject to the following conditions:

11) That applicant obtain and record (with the Sargent County Recorder's office) flowage easements (and not just written consents) from the owners of the following parcels in Forman Township, Sargent County, North Dakota:

- a. Northeast Quarter of Section 35 (T130, R56);
- b. Northwest Quarter of Section 35;
- c. Southwest Quarter of Section 36; and
- d. Northwest Quarter of Section 36.

2) That applicant obtains written consent from the Forman Township Board of Township Supervisors to install a culvert through its township road.

3) That applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the drain.

4) That applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

## 1 **Applications to Drain with Drain Tile #3655 and #3656 for Brian Vculek**

The Board reviewed the information from the State Engineer's office regarding Applications to Drain with Drain Tile Nos. 3655 and 3656 for Mr. Brian Vculek. Under Application No. 3655, Mr. Vculek intends to construct a tile system on the South Half of Section 17 in Denver Township (T132, R58), Sargent County, North Dakota. Mr. Vculek plans to discharge the tile system into a ditch in Mr. Vculek's yard for his homestead which will flow north toward the half section line between the North and South Halves of Section 17. The ditch will then dump into an existing east-west ditch that flows along the half section line in Section 17. That ditch will flow west and will ultimately discharge into a natural slough system in Section 18. Specifically, Mr. Vculek's existing ditch on the half section line will discharge into the largest slough in Section 18. As a result of the use of the existing drain or ditch on the half section line between the North and South Halves of Section 17, the ditch will be full longer and may have some minimal adverse impacts to the owners in the North Half of Section 17. The Board will require easements from the owners of the North Half of Section 17. According to records on file with the Sargent County Recorder's office, Brian Vculek is the record owner of the South Half of Section 17, where Mr. Vculek intends to construct the tile system.

The Board concluded no hearing is necessary since the Board will already require easements from the owners of the North Half of Section 17 adjacent to the existing drainage ditch along the north-south half section line. The Board determined erosion protection is necessary at the outlet to prevent erosion and any further impacts downstream.

The Board adopted Chad Engels' proposed responses to the eight-point questionnaires and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearings were necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will already require easements from downstream landowners.

Manager Breker, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3655 for Mr. Brian Vculek, subject to the following conditions:

- 1) that applicant obtain and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcels in Denver Township, Sargent County, North Dakota:
  - a. Northeast Quarter of Section 17, Denver Township (T132, R58);
  - b. Northwest Quarter of Section 17, Denver Township; and
  - c. Northeast Quarter of Section 18, Denver Township.
- 2) that applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system;
- 3) that applicant provide and maintain adequate erosion protection at all outlets; and
- 4) that applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

With regard to Application to Drain with Drain Tile No. 3656, Mr. Vculek intends to construct a tile system in the South Half of Section 35 of Denver Township (T132, R58). According to records on file with the Sargent County Recorder's office, Mr. Vculek is the record owner of the South Half of Section 35, where he intends to construct the tile system. Mr. Vculek intends to discharge his tile system into the north-south township road ditch along the east side of Section 35. The discharge would then flow north through the township road ditch along the eastern boundary of the South Half of the Northeast Quarter of Section 35. The township road ditch then discharges into Drain 11. There may be some impacts to the owner of the South Half of the Northeast Quarter of Section 35. It will be wet more frequently and for longer periods of time. The additional water into Drain 11 will have negligible impacts on Drain 11. The Board will require the applicant to obtain written permission from the Denver Township Board of Township Supervisors.

The Board concluded no hearing is necessary since the Board will already require a downstream flowage easement from the impacted landowner. The Board will require erosion protection at all outlets to prevent erosion and any other adverse impacts downstream.

The Board adopted Chad Engels' proposed responses to the eight-point questionnaires and the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code because the Board will already require a downstream flowage easement from the downstream landowner, and written permission from the Denver Township Board of Township Supervisors to utilize its township road right of way.

Manager Breker, seconded by Manager Engst, moved to approve Application to Drain with Drain Tile No. 3656 for Mr. Brian Vculek, subject to the following conditions:

- 1) that applicant obtains and record (with the Sargent County Recorder's Office) flowage easements (and not just written consents) that include language permitting saline water from the owners of the following parcel in Denver Township, Sargent County, North Dakota:
  - a. South Half of the Northeast Quarter of Section 35, Denver Township (T132, R58);

- 2) that applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system;
- 3) that applicant obtains written consent from the Denver Township Board of Township Supervisors to utilize any of its township road right of way;
- 4) that applicant provide and maintain adequate erosion protection at all outlets; and
- 5) that applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously. The Board directed Sean Fredricks to prepare a Notice of Decision, and to provide the Notice of Decision to the State Engineer, the applicant, and other parties of record.

Sean Fredricks prepared and submitted a Lease Agreement between Sargent County Water Resource District and Jeffrey D. Breker, Havana, ND and Gerald Woytassek, Milnor, ND. Said lease is for ten years on land owned by the Board and described as NE1/4NW1/4-8-129-54 LTL. This lease pertains to Drainage Permit No. 3544 for Jeffrey D. Breker and Drainage Permit No. 3616 for Gerald Woytassek. Motion to enter into the Lease Agreement with Mr. Breker and Mr. Woytassek contingent upon their signatures and them returning an as built plan for the tile drain. (White/Engst, unanimous) A copy of the Lease agreement is on file with the Board Secretary.

The Board had a lengthy discussion on Drain No. 12 and the Texas crossing located between Section 8 and 17 of Marboe Township. This site has had damage several times due to high, fast moving water. FEMA has approved repairs to this site including installation of two (2) 36 inch culverts, rip rap and pit run gravel. The Board fears that this will not solve the problem and after lengthy discussion agreed to proceed with placing sheet piling along this site to secure the bank and culverts. A truckload of sheet piling will be ordered and delivered for use at this site and other sites that need reinforcement.

Mark Breker reported that Dick Anderson, Sargent County Weed Board agreed to spray the trees and wormwood around Brummond-Lubke Dam and also Frenier Dam as indicated on the Annual Dam Inspection report.

The meeting adjourned at 10:00 p.m.

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JAMES BOSSE – CHAIRMAN

ATTEST;

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SHERRY HOSFORD - SECRETARY